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Paper No. 21

APR -9 2004

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**OFFICE OF PETITIONS**

In re Application of  
Hogenkamp et al.  
Application No. 09/814,123  
Filed: March 22, 2001  
Attorney Docket No.  
1861.1270001/JMC/THN

RECEIVED  
STERNE, KESSLER,  
GOLDSTEIN & FOX PLLC  
JMC 4/13  
THN 4/13

:  
: DECISION ON REQUEST FOR  
: RECONSIDERATION OF  
: FOR PATENT TERM ADJUSTMENT  
:  
:

This is a decision on the "Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. § 1.705," filed June 12, 2003. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to seventy-eight (78) days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is seventy-nine (79) days, not 78 days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 13, 2003, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. On June 12, 2003, applicants timely submitted the instant request for reconsideration of the patent term adjustment. At the time of the mailing of the notice of allowance, there were no grounds for adjustment of the patent term. However, any adjustment was subject to a reduction of one hundred forty-seven days for applicants' late response filed May 9, 2002, to the non-final Office action mailed September 13, 2001. Applicants dispute this reduction, asserting that the response was timely filed on December 13, 2001.

The response has been shown to have been filed on December 13, 2001, not May 9, 2002. In compliance with § 1.704(b), the response was timely filed within three months of the mailing of the non-final Office action mailed September 13, 2001. See 1.704(b). Accordingly, any patent term adjustment should not be subject to a period of reduction of 147 days.

Palm records indicate that the Issue Fee payment was also received in the Office on June 12, 2003.

Furthermore, given that the response was filed on December 13, 2001, the Office failed to take action within four months. A restriction requirement was not mailed in response until July 1, 2002. Accordingly, pursuant to § 1.703(a)(2), the application is entitled to a period of adjustment of 79 days, the number of days in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed, April 14, 2002 and ending on the date of mailing of an action under 35 U.S.C. 132, July 1, 2002.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is seventy-nine (79) days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Office of Patent Publication for timely issuance of the patent.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (703) 305-0309.

*Karin Ferriter*

Karin Ferriter  
Senior Legal Advisor  
Office of Patent Legal Administration  
Office of Deputy Commissioner  
for Patent Examination Policy

Enclosure: Copy of Revised PAIR Screen

Day : Wednesday

Date: 4/7/2004

Time: 09:29:15

**PALM INTRANET****PTA Calculations for Application: 09/814123**

Application Filing Date:	03/22/2001	PTO Delay (PTO):	0
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	147
Post-Issue Petitions:	0	Total PTA (days):	79
PTO Delay Adjustment:	226		

**File Contents History**

Number	Date	Contents Description	PTO	APPL	START
43	04/07/2004	ADJUSTMENT OF PTA CALCULATION BY PTO	147		
42	04/07/2004	ADJUSTMENT OF PTA CALCULATION BY PTO	79		
28	03/13/2003	MAIL NOTICE OF ALLOWANCE			
27	03/13/2003	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
26	03/13/2003	CASE DOCKETED TO EXAMINER IN GAU			
25	03/13/2003	NOTICE OF ALLOWABILITY			
24	03/04/2003	DATE FORWARDED TO EXAMINER			
23	02/14/2003	SUPPLEMENTAL RESPONSE			
22	01/22/2003	DATE FORWARDED TO EXAMINER			
21	11/27/2002	RESPONSE AFTER NON-FINAL ACTION			
20	08/27/2002	MAIL NON-FINAL REJECTION			
19	08/26/2002	NON-FINAL REJECTION			
18	08/07/2002	DATE FORWARDED TO EXAMINER			
17	07/31/2002	RESPONSE TO ELECTION / RESTRICTION FILED			
16	07/01/2002	MAIL RESTRICTION REQUIREMENT			
15	06/28/2002	REQUIREMENT FOR RESTRICTION / ELECTION			
14	05/09/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	05/14/2002	DATE FORWARDED TO EXAMINER			
12	05/09/2002	RESPONSE AFTER NON-FINAL ACTION		147	9
11	12/19/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	12/18/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	09/13/2001	MAIL NON-FINAL REJECTION			
8	09/10/2001	NON-FINAL REJECTION			

7	08/07/2001	CASE DOCKETED TO EXAMINER IN GAU			
6	07/26/2001	APPLICATION DISPATCHED FROM OIPE			
5	05/31/2001	APPLICATION IS NOW COMPLETE			
4	05/31/2001	NOTICE MAILED--APPLICATION INCOMPLETE-- FILING DATE ASSIGNED			
3	05/30/2001	CORRESPONDENCE ADDRESS CHANGE			
2	04/14/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/22/2001	INITIAL EXAM TEAM NN			

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### EXPLANATION OF PTA CALCULATION

### EXPLANATION OF PTE CALCULATION

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